

Relationship of Morality and Law in Based on the Category of “Punishment”

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ANNOTATION

This article analyzes the relationship between morality and law in the justification of the category of punishment. The author studied punishment as a multidimensional, culturally and historically variable category.

KEYWORDS: Ethics, law, punishment, religious punishments, historical forms of punishment.

Human society exists because of a system of norms developed over centuries and proven to be effective. Centuries of experience have proven the need for a penal institution to ensure the existence and viability of social norms.

There are fairly developed legal interpretations of punishment; On the issue of religious punishments, there are complete opinions in religion and philosophy of religion. At the same time, ethics considers special external and internal sanctions (conscience, shame, etc.) as a sufficient response to violations of moral norms.

In our research, we propose to study by synthesizing and generalizing the interpretations of punishment in different forms of knowledge (primarily in jurisprudence and ethics). This position can be called a comprehensive philosophical approach to punishment. It should be emphasized that punishment is not only multidimensional, but also a culturally and historically changing phenomenon. In order to understand the meaning of a certain type of punishment (death penalty, corporal punishment, public accusation or penitence), we need to deeply understand the moral values of the time and culture that created it. On the other hand, if we look at the culture or development from the point of view of the punishment used in that period, the undiscovered aspects of morality are revealed.

During the development of theories of punishment, the essence of punishment was interpreted differently. In this paragraph, we consider the most general theoretical issues related to the philosophical understanding of punishment.

Before studying any phenomenon, understanding the dictionary meaning of the word that represents it will help to study this phenomenon more accurately. The word "punishment" is one of the actively used words in the Uzbek language. Words such as "Chora", "instruction", "Command" are used as its synonyms. Some thinkers tried to explain that the concept of punishment is close to instruction in a positive sense. For example, L.N. Tolstoy defines the concept of "Punishment" as follows: "To punish (nakazyvat) means teaching (pouchat) in Russian. You can only teach kindness by good words and example."

Legal, moral and religious concepts such as instruction, repentance, lesson, revenge,

suffering, monetary compensation, which express the etymological origin of punishment, also mean that its essence and purpose express different meanings.

For example, let's consider one characteristic given to punishment by F. Nietzsche: "Punishment is like a disarmament that serves to prevent additional damage. Punishment is compensation for any harm done to the victim."

In sociology, punishment is considered as a negative social sanction used as an element of social control over the behavior of individuals. P.A. Sorokin revealed the sociological mechanisms of punishment in his works. : "Punishment is an action or a set of actions that represents the response to actions that have committed a crime and are classified as criminal actions. . Punishments and rewards play a motivational role in controlling behavior. The study of punishment as a special social institution and form of social control reveals a number of its important features.

In pedagogy and psychology, we can see a positive approach to punishment. According to him, punishment is a negative evaluation of the behavior and activities of the students. Punishment is the last method of education used for the benefit of the community. In pedagogy and psychology, it is emphasized that corporal punishment: hitting, beating, intimidation, and intimidation do not give good results. The student learns to lie out of fear, becomes a hypocrite.

In the rules of ethics, punishment is understood in a generalized sense, according to which "Punishment is a negative punishment applied in case of violation of established rules (rules, laws) and consists in limiting the opportunities of the criminal and lowering his social status (rights, property, freedom) sanctions".

Punishment is a type of special sanction after violation of norms. They are relatively stable standards of human behavior that affect all members of society and regulate their behavior, and are consolidated in the public consciousness and are expressed in two forms of public consciousness: morality and law.

There are many differences between moral standards and legal standards. Legal norms are established by the will of the state and provided by means of external coercion. Moral standards are supported by custom, public opinion, and the power of personal belief. The specific values between moral and legal relations in the human mind constitute the legal culture of the society.

In most sources, legal culture is viewed from an axiological point of view: Legal culture is the process and result of human creativity in the field of law, characterized by the creation and approval of legal values; legal culture is a type of social culture that reflects the perfection of legal consciousness, legislation and legal practice, and encompasses all the values created by people in the field of law.

In this concept, legal culture has its own value and is characterized not by law itself, but by recognition of the importance of law in the life of an individual and society. Legal culture focuses on legal values, but has moral foundations. It is clear from this that it is not enough to ensure the recognition of the value of the law by legal means (will of the state and external coercion), moral mechanisms (customs, social opinions and personal beliefs) should also work actively in this process. Legal culture means that society has formed the necessary moral standards based on respect for the law, and a person understands their importance for

himself and society. So, in essence, legal culture can be understood as a part of moral consciousness and forms of moral activity aimed at understanding the law.

Ethical culture means the level of moral consciousness and moral knowledge, which is usually manifested in real actions. Accordingly, legal culture can be understood as a complex education that includes the same elements as ethics, but is focused on the law.

Legal consciousness is a set of views about law and its values that determine what society considers something to be fair and unfair. Legal thinking is a theoretical reflection of law and legal consciousness (expressed in the theory of law, philosophy, ethics). Legal activity is an expression of values positions in real actions of a citizen. Legal culture is changing and changing as a complex system of knowledge, values, attitudes and actions based on them. The level of legal culture may be different for different nations in different eras. This, in turn, determines society's attitude to punishment.

On the basis of legal culture, two very important positions can be distinguished in relation to punishment. Solov'ev described these two positions in the theory of punishment as "supporters of revenge" and "supporters of advice".

The inconsistency in understanding the nature of the punishment established in these positions arises from the inconsistency of its moral status. Despite much research into the nature of punishment and its variety of types, there is always a certain amount of moral ambiguity in it. If we believe that punishment is evil, if we acknowledge it, we also acknowledge evil. If we think it's good, we have to explain why people are afraid of such good. And finally, if we reject the moral justification of punishment, we need to explain how the crime can be eliminated in another way, or what to confront the criminal.

The first point of view (whose goal Vladimir Solovev called the desire for "revenge") is usually called legitimacy. It derives from the rule of law; the main thesis of its supporters: "crime must inevitably be punished". Evil must be punished at all costs: this is a legal necessity and a duty of the state to its citizens. As for morality, it is explained by concepts such as the education of the inner person, responsibility to the community, and conscience. In other words, both law and morality need punishment to ensure their stability. Fear of punishment prevents people from violating the boundaries of legality and morality. Without this fear, society will return to its original state. "The war of all against all" begins.

According to F. Nietzsche, if the purpose of punishment is to make the accused realize his guilt and then think about repentance, it is very difficult to achieve this goal. Punishment is aimed at making the guilty feel guilty. It is hoped that it will help him to develop a sense of conscience and remorse. However, many studies show that true remorse is a very rare phenomenon among criminals and convicts. The humanization of punishment as much as possible has gained importance in all times as a moral necessity.

Civil society is the only and important foundation for the practical unity of morality and law. In the process of formation of civil society and development of legal culture in Europe, the main conciliatory moral and legal principles used for punishment were created. The main ones are systematized below. These are the principles proposed by C. Montesque, C. Beccaria, I. Bentham, and M. Foucault. Almost all of them are formalized and used in modern judicial practice to one degree or another.

1. The principle of saving the means of punishment. It is based on the requirements of

humanism. According to Montesquieu, any excessive punishment always has a negative effect not only on the interests of the punished, but also on the interests of society as a whole. The accused can be punished only in extreme cases, when other measures of influence no longer help. It is clear that it is impossible to achieve a reduction of crimes by punishment alone: therefore, the state should use other ways to achieve this (incentives, education and legal awareness development, encouraging the development of civil society institutions, etc.).

Sh.L. First of all, Montesquieu was a supporter of the legal immunity of the person, so he spoke against the excessive cruelty of punishments. He emphasized that not only morality, but also common sense opposes cruelty: "Experience shows that humane punishments make no less an impression on the minds of citizens of countries where punishments are not cruel than the most cruel punishments of other countries."

2. The principle of justice. It has been important in the theory of punishment since ancient times. In accordance with this principle, the punishment must correspond to the degree of social danger of the crime, the circumstances of its commission and the personality of the criminal. That is, too light and too heavy punishment does not represent justice. The principle of justice clearly prohibits punishments that exceed the upper and lower limits formally established by law.

The concept of justice is closely related to equality and inequality. For example, if two crimes are equal in severity, then the punishment for these crimes should be equal. Accordingly, the same punishment cannot be imposed for crimes of different severity.

According to this position, equality should be complemented by the principle of consideration of individuality, i.e. equality appears when a balanced state of equality and inequality is found, that is, taking into account both of these principles.

3. The principle of considering individuality. This principle emphasizes the following: it is necessary to take into account the personality of the criminal, the level of his social danger, the circumstances of the crime, the impact of the punishment on the criminal and his relatives. At the same time, it is impossible to leave the legal framework of the punishment.

Of course, identifying all the necessary features is an extremely difficult task, and here, as in the case of a guilty verdict, the responsibility for making the right decision rests with the judge.

4. The principle of personal independence requires that the punishment should be applied only to the guilty person and not to his relatives. Everyone must be responsible for their actions.

5. The principle of democracy. The principle of democracy consists of various forms of participation of members of civil society in the administration of justice.

According to this principle, justice should be clear and understandable for all citizens, so that every member of society can distinguish criminal actions from legal actions. Laws should be open to everyone, information about them and legal knowledge should be provided in the general education system, and legal consciousness should be cultivated from a very young age. Continuous open communication between civil society and the judiciary is important, "so that the proceedings are not secret, the reasons for the conviction or acquittal of the accused are known to all, and the grounds of punishment are known to all."

6. The harmful side of crime is the principle of utilitarian morality. I. Bentham wrote about this principle in his writings as follows: "The punishment should exceed the benefit of the crime." The criminal must understand that it is not worth depriving him of some opportunities that he obtained as a result of the crime.

7. The principle of general truth. This principle appeared in the 18th century. Countries with absolute power, that is, monarchies, mainly used the practice of forcing confessions under torture. This situation (reflected in the mass punishment of the innocent) led to the loss of the connection between punishment and crime in the minds of people and a long-term breakdown of faith in the objectivity of the judicial system.

That is why it is very important to be as open as possible and scientifically based in proving the criminal's guilt.

Today, a lot of things are being done in our country to ensure fairness and transparency in the conduct of judicial proceedings and investigative activities. For example, the fact that court proceedings are open to the media, and that the places where investigations are held are equipped with cameras, create conditions for citizens to freely exercise their rights and prevent torture.

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